

ICTR-99-54A-T
15. JAN. 2003
(1068 — 1066)

1068
sm/sg



United Nations
Nations Unies

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER II

Before: Judge William H. Sekule, Presiding
Judge Winston C. Matanzima Maqutu
Judge Arlette Ramaroso

Registrar: Adama Dieng

Date: 15 January 2003

The PROSECUTOR

v.

Jean de Dieu KAMUHANDA

Case No. ICTR-95-54A-T

JUDICIAL RECORDS/ARCHIVES
RECEIVED
ICTR
2003 JAN 15 | P 1:05

**DECISION ON KAMUHANDA'S EXTREMELY URGENT MOTION FOR
LEAVE TO VARY THE LIST OF DEFENCE WITNESSES (RULE 73 ter)**

Prosecution

Mr. Marks Moore
Mr. Ibukunolo Alao Babajide
Ms. Dorothée Marotine

Defence

Ms. Aïcha Condé
Ms. Patricia Mongo
Ms. Anta Guisse
Ms. Seynabou Benga

km

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (the "Tribunal"),

SITTING as Trial Chamber II, composed of Judge William H. Sekule, Presiding, Judge Winston C. Matanzima Maqutu and Judge Arlette Ramaroson (the "Chamber");

BEING SEIZED of:

- (i) The Defence "Extremely Urgent Motion for Leave to Vary the List of Defence Witnesses – Rule 73 *ter* of the Rules of Procedure and Evidence" filed on 11 December 2002 (the "Motion");
- (ii) The "Prosecutor's Response to the Defence Extremely Urgent Motion for Leave to Vary the List of Defence Witnesses", filed on 18 December 2002 (the "Prosecutor's Response");

NOTING that, during the hearing of 14 January 2003, the Defence have indicated that they do not intend to reply to the Prosecutor's Response;

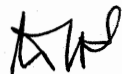
CONSIDERING the Statute of the Tribunal (the "Statute") and the Rules of Procedure and Evidence (the "Rules"), particularly Rule 73 *ter* (E), which states that:

After commencement of the defence case, the defence, if it considers it to be in the interests of justice, may move the Trial Chamber for leave to reinstate the list of witnesses or to vary its decision as to which witnesses are to be called.

NOW CONSIDERS the matter solely on the basis of the written briefs of the Parties, pursuant to Rule 73(A) of the Rules.

SUBMISSIONS OF THE PARTIES

1. The Defence make an application, pursuant to Rule 73 *ter* of the Rules, in order to vary the list of witnesses to be called before the Chamber. The Defence wish to substitute Witness GEO for witnesses PCF and PCK.
2. The Defence inform the Chamber that Witness PCF is unable to travel to Arusha for personal reasons. The Chamber is informed that Witness GEO would be able to testify on the same facts as Witness PCF, therefore the substitution is appropriate. Furthermore, Witness GEO would also be able to testify on some of the same facts as Witness PCK, and should the Chamber grant the substitution, Witness PCK will no longer be required. Therefore, the proposed substitution should also save time.
3. The Prosecution does not object to the substitution, providing that Witness GEO is heard directly by the Chamber, and the normal rights of the Prosecution to cross-examine the witness are unaffected.



DELIBERATIONS

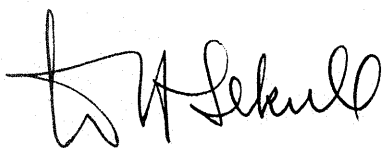
- 4. The Chamber accepts the reasons given by the Defence for the requested substitution. Witness GEO can be substituted for Witnesses PCF and PCK, and will appear before the Chamber to give oral evidence.

FOR THE ABOVE REASONS, THE TRIBUNAL

GRANTS the Defence Motion and:

ORDERS that the list of Defence Witnesses to be called be amended to remove Witnesses PCF and PCK, and add Witness GEO.

Arusha, 15 January 2003



William H. Sekule
Presiding Judge



Winston C. Matanzima Maqutu
Judge



Arlette Ramarosan
Judge

